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Received - 2022-03-24 12:03:10 PM

Control Number - 51841

ItemNumber - 45

Public Utility Commission of Texas

Memorandum

TO: Interested Persons

FROM: David Smeltzer, Rules and Projects

DATE: March 24, 2022

RE: Project No. 51841 – *Review of 16 TAC § 25.53 Relating to Electric Service Emergency Operations Plans*

Commission Staff has received several inquiries regarding the posted version of §25.53 on the Commission's website. The "new" version of the rule, which was adopted by the Commission on February 25, 2022, is currently posted on the Commission's website. Individuals who are having trouble accessing the updated version of the rule should clear their browser's cache and attempt to download the rule again.

To assist entities into coming into compliance with this rule in a timely fashion, Commission Staff also included a word version of the rule with this filing.

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS.

Subchapter C. INFRASTRUCTURE AND RELIABILITY.

§25.53. Electric Service Emergency Operations Plans.

- (a) **Application.** This section applies to an electric utility, transmission and distribution utility, power generation company (PGC), municipally owned utility, electric cooperative, and retail electric provider (REP), and to the Electric Reliability Council of Texas (ERCOT).
- (b) **Definitions.**
 - (1) **Annex** -- a section of an emergency operations plan that addresses how an entity plans to respond in an emergency involving a specified type of hazard or threat.
 - (2) **Drill** -- an operations-based exercise that is a coordinated, supervised activity employed to test an entity's EOP or a portion of an entity's EOP. A drill may be used to develop or test new policies or procedures or to practice and maintain current skills.
 - (3) **Emergency** -- a situation in which the known, potential consequences of a hazard or threat are sufficiently imminent and severe that an entity should take prompt action to prepare for and reduce the impact of harm that may result from the hazard or threat. The term includes an emergency declared by local, state, or federal government, or ERCOT or another reliability coordinator designated by the North American Electric Reliability Corporation and that is applicable to the entity.
 - (4) **Entity** -- an electric utility, transmission and distribution utility, PGC, municipally owned utility, electric cooperative, REP, or ERCOT.
 - (5) **Hazard** -- a natural, technological, or human-caused condition that is potentially dangerous or harmful to life, information, operations, the environment, or property, including a condition that is potentially harmful to the continuity of electric service.
 - (6) **Threat** -- the intention and capability of an individual or organization to harm life, information, operations, the environment, or property, including harm to the continuity of electric service.
- (c) **Filing requirements.**
 - (1) An entity must file an emergency operations plan (EOP) and executive summary under this section by April 15, 2022. Notwithstanding the foregoing, a municipally owned utility must provide its EOP and executive summary in the manner prescribed by the commission in this paragraph no later than June 1, 2022. Each individual entity is responsible for compliance with the requirements of this section. An entity filing a joint EOP or other joint document under this section on behalf of one or more entities over which it has control is jointly responsible for each entity's compliance with the requirements of this section.
 - (A) An entity must file with the commission:
 - (i) an executive summary that:
 - (I) describes the contents and policies contained in the EOP;
 - (II) includes a reference to specific sections and page numbers of the entity's EOP that correspond with the requirements of this rule;
 - (III) includes the record of distribution required under paragraph (4)(A) of this subsection; and
 - (IV) contains the affidavit required under paragraph (4)(C) of this subsection; and
 - (ii) a complete copy of the EOP with all confidential portions removed.
 - (B) For an entity with operations within the ERCOT power region, the entity must submit its unredacted EOP in its entirety to ERCOT.
 - (C) ERCOT must designate an unredacted EOP submitted by an entity as Protected Information under the ERCOT Protocols.
 - (D) An entity must make its unredacted EOP available in its entirety to commission staff on request at a location designated by commission staff.
 - (E) An entity may file a joint EOP on behalf of itself and one or more other entities over which it has control provided that:

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- (i) the executive summary required under subparagraph (A)(i) of this paragraph identifies which sections of the joint EOP apply to each entity; and
 - (ii) the joint EOP satisfies the requirements of this section for each entity as if each entity had filed a separate EOP.
 - (F) An entity filing a joint EOP under subparagraph (E) of this paragraph may also jointly file one or more of the documents required under paragraph (4) of this subsection provided that each joint document satisfies the requirements for each entity to which the document applies.
 - (G) An entity that is required to file similar annexes for different facility types under subsection (e) of this section, such as a pandemic annex for both generation facilities and transmission and distribution facilities, may file a single combined annex addressing the requirement for multiple facility types. The combined annex must conspicuously identify the facilities to which it applies.
- (2) A person seeking registration as a PGC or certification as a REP must meet the filing requirements under paragraph (1)(A) of this subsection at the time it applies for registration or certification with the commission and must submit the EOP to ERCOT if it will operate in the ERCOT power region, no later than ten days after the commission approves the person's registration or certification.
- (3) An entity must continuously maintain its EOP. Beginning in 2023, an entity must annually update information included in its EOP no later than March 15 under the following circumstances:
- (A) An entity that in the previous calendar year made a change to its EOP that materially affects how the entity would respond to an emergency must:
 - (i) file with the commission an executive summary that:
 - (I) describes the changes to the contents or policies contained in the EOP;
 - (II) includes an updated reference to specific sections and page numbers of the entity's EOP that correspond with the requirements of this rule;
 - (III) includes the record of distribution required under paragraph (4)(A) of this subsection; and
 - (IV) contains the affidavit required under paragraph (4)(C) of this section;
 - (ii) file with the commission a complete, revised copy of the EOP with all confidential portions removed; and
 - (iii) submit to ERCOT its revised unredacted EOP in its entirety if the entity operates within the ERCOT power region.
 - (B) An entity that in the previous calendar year did not make a change to its EOP that materially affects how the entity would respond to an emergency must file with the commission:
 - (i) a pleading that documents any changes to the list of emergency contacts as provided under paragraph (4)(B) of this subsection;
 - (ii) an attestation from the entity's highest-ranking representative, official, or officer with binding authority over the entity stating the entity did not make a change to its EOP that materially affects how the entity would respond to an emergency; and
 - (iii) the affidavit described under paragraph (4)(C) of this subsection.
 - (C) An entity must update its EOP or other documents required under this section if commission staff determines that the entity's EOP or other documents do not contain sufficient information to determine whether the entity can provide adequate electric service through an emergency. If directed by commission staff, the entity must file its revised EOP or other documentation, or a portion thereof, with the commission and, for entities with operations in the ERCOT power region, with ERCOT.
 - (D) ERCOT must designate any revised unredacted EOP submitted by an entity as Protected Information under the ERCOT Protocols.
 - (E) An entity must make a revised unredacted EOP available in its entirety to commission staff on request at a location designated by commission staff.

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- (F) The requirements for joint and combined filings under paragraph (1) of this subsection apply to revised joint and revised combined filings under this paragraph.
 - (4) In accordance with the deadlines prescribed by paragraphs (1) and (3) of this subsection, an entity must file with the commission the following documents:
 - (A) A record of distribution that contains the following information in table format:
 - (i) titles and names of persons in the entity's organization receiving access to and training on the EOP; and
 - (ii) dates of access to or training on the EOP, as appropriate.
 - (B) A list of primary and, if possible, backup emergency contacts for the entity, including identification of specific individuals who can immediately address urgent requests and questions from the commission during an emergency.
 - (C) An affidavit from the entity's highest-ranking representative, official, or officer with binding authority over the entity affirming the following:
 - (i) relevant operating personnel are familiar with and have received training on the applicable contents and execution of the EOP, and such personnel are instructed to follow the applicable portions of the EOP except to the extent deviations are appropriate as a result of specific circumstances during the course of an emergency;
 - (ii) the EOP has been reviewed and approved by the appropriate executives;
 - (iii) drills have been conducted to the extent required by subsection (f) of this section;
 - (iv) the EOP or an appropriate summary has been distributed to local jurisdictions as needed;
 - (v) the entity maintains a business continuity plan that addresses returning to normal operations after disruptions caused by an incident; and
 - (vi) the entity's emergency management personnel who are designated to interact with local, state, and federal emergency management officials during emergency events have received the latest IS-100, IS-200, IS-700, and IS-800 National Incident Management System training.
 - (5) Notwithstanding the other requirements of this subsection, ERCOT must maintain its own current EOP in its entirety, consistent with the requirements of this section and available for review by commission staff.
- (d) **Information to be included in the emergency operations plan.** An entity's EOP must address both common operational functions that are relevant across emergency types and annexes that outline the entity's response to specific types of emergencies, including those listed in subsection (e) of this section. An EOP may consist of one or multiple documents. Each entity's EOP must include the information identified below, as applicable. If a provision in this section does not apply to an entity, the entity must include in its EOP an explanation of why the provision does not apply.
- (1) An approval and implementation section that:
 - (A) introduces the EOP and outlines its applicability;
 - (B) lists the individuals responsible for maintaining and implementing the EOP, and those who can change the EOP;
 - (C) provides a revision control summary that lists the dates of each change made to the EOP since the initial EOP filing pursuant to paragraph (1) of this subsection;
 - (D) provides a dated statement that the current EOP supersedes previous EOPs; and
 - (E) states the date the EOP was most recently approved by the entity.
 - (2) A communication plan.
 - (A) An entity with transmission or distribution service operations must describe the procedures during an emergency for handling complaints and for communicating with the public; the media; customers; the commission; the Office of Public Utility Counsel (OPUC); local and state governmental entities, officials, and emergency operations centers, as appropriate in

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- the circumstances for the entity; the reliability coordinator for its power region; and critical load customers directly served by the entity.
 - (B) An entity with generation operations must describe the procedures during an emergency for communicating with the media; the commission; OPUC; fuel suppliers; local and state governmental entities, officials, and emergency operations centers, as appropriate in the circumstances for the entity; and the applicable reliability coordinator.
 - (C) A REP must describe the procedures for communicating during an emergency with the public, media, customers, the commission, and OPUC, and the procedures for handling complaints during an emergency.
 - (D) ERCOT must describe the procedures for communicating, in advance of and during an emergency, with the public, the media, the commission, OPUC, governmental entities and officials, the state emergency operations center, and market participants.
 - (3) A plan to maintain pre-identified supplies for emergency response.
 - (4) A plan that addresses staffing during emergency response.
 - (5) A plan that addresses how an entity identifies weather-related hazards, including tornadoes, hurricanes, extreme cold weather, extreme hot weather, drought, and flooding, and the process the entity follows to activate the EOP.
 - (6) Each relevant annex, as detailed in subsection (e) of this section and other annexes applicable to an entity.
- (e) **Annexes to be included in the emergency operations plan.**
- (1) An electric utility, a transmission and distribution utility, a municipally owned utility, and an electric cooperative must include in its EOP for its transmission and distribution facilities the following annexes:
 - (A) A weather emergency annex that includes:
 - (i) operational plans for responding to a cold or hot weather emergency, distinct from the weather preparations required under §25.55 of this title (relating to Weather Emergency Preparedness); and
 - (ii) a checklist for transmission or distribution facility personnel to use during cold or hot weather emergency response that includes lessons learned from past weather emergencies to ensure necessary supplies and personnel are available through the weather emergency;
 - (B) A load shed annex that must include:
 - (i) procedures for controlled shedding of load;
 - (ii) priorities for restoring shed load to service; and
 - (iii) a procedure for maintaining an accurate registry of critical load customers, as defined under 16 TAC §25.5(22) of this title (relating to Definitions), §25.52(c)(1) and (2) of this title (relating to Reliability and Continuity of Service) and §25.497 of this title (relating to Critical Load Industrial Customers, Critical Load Public Safety Customers, Critical Care Residential Customers, and Chronic Condition Residential Customers), and TWC §13.1396 (relating to Coordination of Emergency Operations), directly served, if maintained by the entity. The registry must be updated as necessary but, at a minimum, annually. The procedure must include the processes for providing assistance to critical load customers in the event of an unplanned outage, for communicating with critical load customers during an emergency, coordinating with government and service agencies as necessary during an emergency, and for training staff with respect to serving critical load customers;
 - (C) A pandemic and epidemic annex;
 - (D) A wildfire annex;

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- (E) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by the Texas Division of Emergency Management (TDEM);
 - (F) A cyber security annex;
 - (G) A physical security incident annex;
 - (H) A transmission and distribution utility that leases or operates facilities under PURA §39.918(b)(1) or procures, owns, and operates facilities under PURA §39.918(b)(2) must include an annex that details its plan for the use of those facilities; and
 - (I) Any additional annexes as needed or appropriate to the entity's particular circumstances.
- (2) An electric cooperative, an electric utility, or a municipally owned utility that operate a generation resource in Texas; and a PGC must include the following annexes for its generation resources other than generation resources authorized under PURA §39.918:
 - (A) A weather emergency annex that includes:
 - (i) operational plans for responding to a cold or hot weather emergency, distinct from the weather preparations required under §25.55 of this title;
 - (ii) verification of the adequacy and operability of fuel switching equipment, if installed; and
 - (iii) a checklist for generation resource personnel to use during a cold or hot weather emergency response that includes lessons learned from past weather emergencies to ensure necessary supplies and personnel are available through the weather emergency;
 - (B) A water shortage annex that addresses supply shortages of water used in the generation of electricity;
 - (C) A restoration of service annex that identifies plans intended to restore to service a generation resource that failed to start or that tripped offline due to a hazard or threat;
 - (D) A pandemic and epidemic annex;
 - (E) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
 - (F) A cyber security annex;
 - (G) A physical security incident annex; and
 - (H) Any additional annexes as needed or appropriate to the entity's particular circumstances.
- (3) A REP must include in its EOP the following annexes:
 - (A) A pandemic and epidemic annex;
 - (B) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
 - (C) A cyber security annex;
 - (D) A physical security incident annex; and
 - (E) Any additional annexes as needed or appropriate to the entity's particular circumstances.
- (4) ERCOT must include the following annexes:
 - (A) A pandemic and epidemic annex;
 - (B) A weather emergency annex that addresses ERCOT's plans to ensure continuous market and grid management operations during weather emergencies, such as tornadoes, wildfires, extreme cold weather, extreme hot weather, and flooding;
 - (C) A hurricane annex that includes evacuation and re-entry procedures if facilities are located within a hurricane evacuation zone, as defined by TDEM;
 - (D) A cyber security annex;
 - (E) A physical security incident annex; and
 - (F) Any additional annexes as needed or appropriate to ERCOT's particular circumstances.
- (f) **Drills.** An entity must conduct or participate in at least one drill each calendar year to test its EOP. Following an annual drill the entity must assess the effectiveness of its emergency response and revise its EOP as

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needed. If the entity operates in a hurricane evacuation zone as defined by TDEM, at least one of the annual drills must include a test of its hurricane annex. An entity conducting an annual drill must, at least 30 days prior to the date of at least one drill each calendar year, notify commission staff, using the method and form prescribed by commission staff on the commission's website, and the appropriate TDEM District Coordinators, by email or other written form, of the date, time, and location of the drill. An entity that has activated its EOP in response to an emergency is not required, under this subsection, to conduct or participate in a drill in the calendar year in which the EOP was activated.

- (g) **Reporting requirements.** Upon request by commission staff during an activation of the State Operations Center by TDEM, an affected entity must provide updates on the status of operations, outages, and restoration efforts. Updates must continue until all incident-related outages of customers able to take service are restored or unless otherwise notified by commission staff. After an emergency, commission staff may require an affected entity to provide an after action or lessons learned report and file it with the commission by a date specified by commission staff.